

**MENTAL COMPETENCY — Rule 11 competency hearing, how and why
obtained; standard of review**

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“A competency hearing may be had for the purpose of determining whether the defendant is mentally able to stand trial, as well as to determine whether the defendant is competent to conduct his own defense.” *State v. Djerf*, 191 Ariz. 583, 591, ¶ 22, 959 P.2d 1274, 1282 (1998); *see also State v. Martin*, 102 Ariz. 142, 145-46, 426 P.2d 639, 642-643 (1967). The Rules of Criminal Procedure detail the process by which a competency hearing is obtained. "Rule 11 of the Arizona Rules of Criminal Procedure allows any party to move for a competency hearing." *Djerf*, 191 Ariz. at 591. The Comment to Rule 11.2, Ariz. R. Crim. P., explains why any party, including the State, can seek a competency examination: "The state must have the right to request an examination to determine competency, since the U. S. Supreme Court has held that the failure to make a determination of competency when reasonable grounds appear is fundamental constitutional error," *citing Pate v. Robinson*, 383 U.S. 375, 86 S.Ct. 836 (1966). The Court may also order a Rule 11 hearing *sua sponte*. Rule 11.2(a), Ariz. R. Crim. P. Judges may be required to order the hearing based on their own observations: "Due process requires the judge to raise the issue and hold the hearing *sua sponte* if it appears to the judge at any time that competency is in doubt." *Bishop v. Superior Court*, 150 Ariz. 404, 407, 724 P.2d 23, 26 (1986). *See also Drope v. Missouri*, 420 U.S. 162, 180, 95 S.Ct. 896, 908 (1975); *State v. Bradley*, 102 Ariz. 482, 486, 433 P.2d 273, 277 (1967) (*overruled in part on other grounds by State v. Harville*, 106 Ariz. 386, 476 P.2d 841 (1970)).

Rule 11.2(c), Ariz. R. Crim. P., provides that the trial court "may order that a preliminary examination be conducted pursuant to A.R.S. § 13-4503(C) to assist the court in determining if reasonable grounds exist to order further examination of the defendant." When the preliminary evaluation shows no signs of incompetency or insanity, the trial court may deny a full competency evaluation. See *State v. Herrera*, 176 Ariz. 21, 26, 859 P.2d 131, 136 (1993); *State v. Walton*, 159 Ariz. 571, 577, 769 P.2d 1017, 1023 (1989), *affirmed*, *Walton v. Arizona*, 497 U.S. 639 (1990), *overruled on other grounds by Ring v. Arizona*, 536 U.S. 584, 122 S.Ct. 2428 (2002).

"After the motion is made, if the court finds that 'reasonable grounds' exist for a mental examination, it will appoint two medical experts to examine the defendant and to testify concerning those findings at a subsequent hearing." *State v. Djerf*, 191 Ariz. 583, 593, ¶ 22, 959 P.2d 1274, 1282 (1998); Rules 11.2 and 11.3, Ariz. R. Crim. P.

"[T]he determination of competency to stand trial is always and exclusively a question for the court Further, although the judge may appoint mental health experts to assist him in his determination, he is not bound by their opinions; the determination of both fact and law is his." *Bishop v. Superior Court*, 150 Ariz. 404, 408, 724 P.2d 23, 27 (1986), *internal citations omitted*. See also Rule 11.5, Ariz. R. Crim. P.; *United States v. Davis*, 365 F.2d 251, 254-55 (6th Cir. 1966).

Federal appellate courts review decisions regarding competency for abuse of discretion. *United States v. George*, 85 F.3d 1433, 1437 (9th Cir. 1996); *Drope v. Missouri*, 420 U.S. 162, 172, 95 S.Ct. 896, 904, 43 L.Ed.2d 103 (1975). In Arizona, the "determination of competency to stand trial is always and exclusively a question for the trial court, subject to review for an abuse of discretion." *In re Charles B.*, 194 Ariz. 174,

177, 978 P.2d 659, 662 (App. 1998). As the Arizona Supreme Court said in *State v. Brewer*, 170 Ariz. 486, 495, 826 P.2d 783, 792 (1992):

Preliminarily, our review is governed by an abuse of discretion standard. "[W]e look only to see whether reasonable evidence supports the trial court's finding" that defendant was competent to waive his rights and enter the plea. *State v. Bishop*, 162 Ariz. 103, 104, 781 P.2d 581, 582 (1989). We will also "consider the facts in a light most favorable to sustaining the trial court's finding." *Id.*

The standard of review for denial of a competency hearing is also one of abuse of discretion. *State v. Taylor*, 160 Ariz. 415, 418, 773 P.2d 974, 977 (1989).